

REMARKS

Applicants have received the Office Action mailed February 15, 2002, and note with appreciation the allowance of Claims 6-10, 16-20 and 24-37, and the indication that Claim 44 contains allowable subject matter. Reconsideration of the remaining claims is respectfully requested in view of the above amendments and the remarks below.

Rejections under 35 U.S.C. §112

The Examiner has rejected Claims 38-44 under 35 U.S.C. §112, paragraph 2 as being indefinite because the phrase "the disc blade" in Claim 38, line 9, lacked proper antecedent basis. The phrase has been amended to read "said only one of the disc blades". Applicants believe that the reference to "only one of the disc blades" in the previous line provides the proper antecedent basis for this phrase.

Rejections under 35 U.S.C. §103

The Examiner has rejected Claims 1, 4, 11, 14, 15 and 21 under 35 U.S.C. §103(a) as being unpatentable over the Deere & Co. parts drawing in view of Bierl et al., U.S. Patent No. 5,042,590. Claims 1, 4, and 21 have been cancelled.

In regard to independent Claim 11, Applicants respectfully disagree that modifying the device of the Deere & Co. parts drawing by adding the U-shaped leaf spring of Bierl et al. '590 as suggested by the Examiner will produce the implement of Claim 11, which is an implement

having a plurality of disc blades spaced laterally across the implement, each of which is independently supported by a leaf spring.

It should first be noted that the device depicted in the Deere & Co. parts drawing is a middlebreaker assembly, not a mounting structure for one of the main gang disc blades of an implement. A middle-breaker is a single disc blade which is mounted proximate the midline of an implement to break up any dirt clods which pass between the left and right disc gangs. (A typical mounting location for a middlebreaker is shown in the larger photo on page 13 of the Deere & Co. sales literature for tandem and offset disks submitted with Applicants' IDS.) Because a middlebreaker only consists of a single disc blade, it obviously must be independently mounted.

Bierl et al '590 teaches an implement having gangs of disc blades mounted in the traditional fashion, i.e. with a plurality of disc blades mounted on a common shaft or axle. The shafts are each suspended from the implement frame by a plurality of U-shaped leaf springs. Because the disc blades are mounted on a common shaft, the cuts made by the blades will, by necessity, remain straight, parallel, and evenly spaced, which is often considered to be desirable. The problem occurs when one of the disc blades encounters an obstacle, such as a rock. When this occurs, the disc blade will either break, or the entire disc gang will be deflected, disrupting the cut of each disc blade.

Modifying the Deere & Co. middlebreaker by adding the U-shaped leaf spring of Bierl et al. '590 as suggested by the Examiner will not produce the implement of Claim 11, which is an implement having a plurality of disc blades spaced laterally across the implement, each of which is independently supported by a leaf spring. The suggested combination will only result in the

production of a middlebreaker with a U-shaped spring. Nothing in either of the cited references suggests using the individual disc mounting structures of the modified middlebreaker assembly for mounting the main gang disc blades to an implement.

Claim 11 is, therefore, believed to be patentable over the prior art of record. Claims 14 and 15 depend from Claim 11 and are, therefore, also believed to be patentable over the prior art of record.

The Examiner has rejected Claims 2, 3, 12, 13, 22 and 23 under 35 U.S.C. §103(a) as being unpatentable over the Deere & Co. parts drawing in view of Bierl et al., U.S. Patent No. 5,042,590, and Miguet et al., U.S. Patent No. 4,452,319. Claims 2, 3, 22, and 23 have been cancelled. Claims 12 and 13 are believed to be patentable for the reasons discussed above, as adding Miguet et al. '319 to the suggested combination also fails to teach or suggest an implement as claimed.

The Examiner has rejected Claims 1, 4, 11, 14, 15, 21, 38, 40 and 43 under 35 U.S.C. §103(a) as being unpatentable over Bierl et al., U.S. Patent No. 5,042,590, in view of the Deere & Co. parts drawing. Claims 1, 4 and 21 have been cancelled.

In regard to independent Claims 11 and 38, Applicants respectfully disagree that it would be obvious to a person of ordinary skill in the art to modify Bierl et al '590 by using a disc attachment assembly as taught by the Deere & Co. parts drawing for independently mounting the main gang disc blades because there is no suggestion or motivation for combining the references as the Examiner suggests.

While it might be obvious to add the middlebreaker of Deere & Co. to the implement of Bieri et al '590, doing so would only produce an implement having rigid disc gangs and an independent middlebreaker. Nothing in either of the cited references suggests or provides a motivation for using the individual disc mounting structures of the Deere & Co. middlebreaker assembly for mounting the main gang disc blades to an implement. Without such a suggestion or motivation to combine the references, a prima facie case of obviousness has not been established. *See* MPEP §2143.01. Claims 11 and 38 are, therefore, believed to be patentable over the prior art of record. Claims 14 and 15 depend from Claim 11 and are, therefore, also believed to be patentable over the prior art of record. Similarly, Claims 40 and 43 depend from Claim 38 and are likewise believed to be patentable over the prior art of record.

The Examiner has rejected Claims 2, 3, 12, 13, 22, 23 and 39 under 35 U.S.C. §103(a) as being unpatentable over Bierl et al., U.S. Patent No. 5,042,590, in view of the Deere & Co. parts drawing and Miguet et al., U.S. Patent No. 4,452,319. Claims 2, 3, 22, and 23 have been cancelled. Claims 12 and 13, which depend from Claim 11, and Claim 39, which depends from Claim 38, are believed to be patentable for the reasons discussed above, as adding Miguet et al. '319 to the suggested combination also fails to teach or suggest an implement as claimed.

The Examiner has rejected Claims 41 and 42 under 35 U.S.C. §103(a) as being unpatentable over Bierl et al., U.S. Patent No. 5,042,590, in view of the Deere & Co. parts drawing and Van Mill, U.S. Patent No. 5,590,721. Claims 41 and 42, which depend from Claim 38, are believed to be patentable for the reasons discussed above, as adding Van Mill '721 to the suggested combination also fails to teach or suggest an implement as claimed.

Allowable Subject Matter

The Examiner has indicated that Claim 44 would be allowable if rewritten in independent form and amended to overcome the rejection 35 USC §112 discussed above. Claim 44 has been so rewritten.

Conclusion

Applicants have considered the additional prior art cited by the Examiner, but not applied against the claims. The claims, as amended, are deemed to be patentable over these references as well.

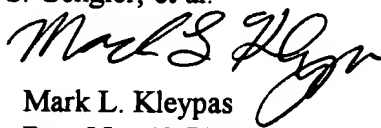
In view of the amendments contained herein and the above remarks, it is respectfully submitted that Claims 6-20 and 24-44 are clear and definite and that they are patentable over the prior art of record. Accordingly, the Examiner is requested to issue a Notice of Allowance indicating such.

In the event that the Examiner is of the opinion that the prosecution of this application can be advanced thereby, he is invited to contact applicant's attorney at the telephone number listed below.

Respectfully submitted,

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By



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Serial No.09/938,218

Certificate of Mailing

I hereby certify that this Amendment for application Serial No. 09/938,218, filed August 23, 2001, is being deposited with the United States Postal Service as first class mail in an envelope addressed to Box: NON-FEE AMENDMENT, Commissioner for Patents, Washington, D.C. 20231 on May 13, 2002.

Allan S. Gengler, et al.
(Applicants)

By Mark L. Kleypas
Mark L. Kleypas

May 13, 2002

(Date of Signature)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

STATEMENT OF STATUS OF CLAIMS

AND SUPPORT FOR ALL CHANGES TO THE CLAIMS UNDER 37 C.F.R. §1.173(c)

Applicant: Allan S. Gengler et al.

Serial No.: 09/938,218

Date: May 13, 2002

Filed: August 23, 2001

Group Art Unit: 3671

Exam: Victor Batson

For: AGRICULTURAL DISC MOUNTING SYSTEM AND METHOD

Commissioner for Patents
Box: NON-FEE AMENDMENT
Washington, D. C. 20231

Sir:

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Status of Claims:

Claims 1-44 are pending. Of the pending claims, Claims 1-37 are the original patent claims and Claims 38-44 were added in the application for reissue. Claims 6-10, 16-20 and 24-37 have been allowed and Claims 1-5, 11-15, 21-23, and 38-44 have been rejected. Claims 38 and 44 are amended in the Amendment attached hereto. Claims 1-5 and 21-23 are cancelled.

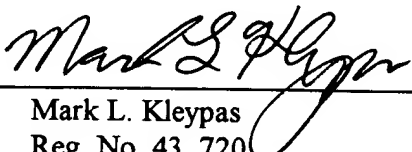
Support for Changes to the Claims:

Claim 38 has been amended to change the description of the disc blade supported by each spindle from "the disc blade" to read "said only one of the disc blades". No change in scope is intended. The spindle is shown as supporting only one disc blade in Figs. 3-12, and is described as supporting only one disc blade throughout the original patent, including at Col. 5 lines 51-56.

Claim 44 has been rewritten in independent form so as to include all of the limitations of independent Claim 38 from which it originally depended. In addition, the description of the disc blade supported by each spindle from "the disc blade" to read "said only one of the disc blades". No change in scope is intended. The spindle is shown as supporting only one disc blade in Figs. 3-12, and is described as supporting only one disc blade throughout the original patent, including at Col. 5 lines 51-56.

Respectfully submitted,

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I hereby certify that this Statement of Status of Claims And Support for All Changes to the Claims under 37 C.F.R. §1.173(c) for reissue application Serial No. 09/938,218, filed August 23, 2001, is being deposited with the United States Postal Service as first class mail in an envelope addressed to Box: NON-FEE AMENDMENT, Commissioner for Patents, Washington, D.C. 20231 on May 13, 2002.

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